
HOUSE BILL No. 1846

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1; IC 20-1-1.1-11; IC 20-10.1-16-16.

Synopsis: Education tax credit pilot program. Provides an adjusted gross income tax refundable credit for the 2004 and 2005 taxable years for qualified elementary and secondary education expenses for dependents who have legal settlement in the Indianapolis public school corporation. Requires participation in the ISTEP or another approved program for tax credit eligibility. Provides that a taxpayer having dependents in both public and nonpublic schools may claim only one credit. For taxpayers having dependents enrolled in a school, establishes the maximum credit for household incomes under \$35,000 at \$2,000 and for household incomes over \$35,000 at \$1,000. For taxpayers having dependents who are excused from school attendance, establishes the maximum credit at \$1,000 per dependent or household. Requires the department of education to develop a list of programs approved for tax credit purposes and to administer the ISTEP program requirement to certain dependents.

Effective: Upon passage; July 1, 2003.

Behning

January 23, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1846

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]:

4 **Chapter 25. Elementary and Secondary Education Tax Credit**
5 **for Education Expense of Dependents Not Enrolled in Public**
6 **Schools**

7 **Sec. 1. As used in this chapter, "accredited nonpublic school"**
8 **means a nonpublic school that:**

9 (1) voluntarily seeks; and

10 (2) receives;

11 accreditation as authorized under IC 20-1-1-6(a)(5).

12 **Sec. 2. As used in this chapter, "dependent" has the meaning set**
13 **forth in Section 151(c)(1)(B) of the Internal Revenue Code.**

14 **Sec. 3. As used in this chapter, "household" means a taxpayer,**
15 **or a taxpayer and the taxpayer's spouse if they reside together, and**
16 **all dependents of the taxpayer or of the taxpayer and the**
17 **taxpayer's spouse if they reside together.**



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1 **Sec. 4.** As used in this chapter, "household income" means the
 2 total adjusted gross income of a household for the taxable year for
 3 which the credit provided by this chapter is claimed.

4 **Sec. 5.** As used in this chapter, "nonpublic school" has the
 5 meaning set forth in IC 20-10.1-1-3.

6 **Sec. 6.** As used in this chapter, "public school" has the meaning
 7 set forth in IC 20-10.1-1-2.

8 **Sec. 7.** As used in this chapter, "qualified education expense"
 9 means any of the following costs incurred by a taxpayer in a
 10 taxable year and paid to others for a dependent who is not enrolled
 11 in a public school but who is eligible for enrollment in a public
 12 school in kindergarten through grade 12:

13 (1) For a dependent who is enrolled in an accredited
 14 nonpublic school, the following:

15 (A) Fees for academic tuition or instruction at the
 16 nonpublic school where the dependent is enrolled,
 17 excluding fees for the teaching of religious tenets,
 18 doctrines, or worship when the purpose of the teaching is
 19 to instill religious tenets, doctrines, or worship.

20 (B) Fees for academic instruction:

- 21 (i) in grade or age appropriate curricula outside a
- 22 regular school year or school day;
- 23 (ii) in the core curriculum areas of language arts,
- 24 mathematics, science, or social studies; and
- 25 (iii) in a program approved by the department of
- 26 education under IC 20-1-1.1-11.

27 (C) Expense for textbooks and instructional materials
 28 required by the accredited nonpublic school to a maximum
 29 of two hundred dollars (\$200) per household minus an
 30 expense under clause (D). This clause excludes expense for
 31 textbooks and instructional materials for the teaching of
 32 religious tenets, doctrines, or worship when the purpose of
 33 the teaching is to instill religious tenets, doctrines, or
 34 worship.

35 (D) Personal computer expense to a maximum of two
 36 hundred dollars (\$200) per household for:

- 37 (i) personal computer hardware, excluding single
- 38 purpose processors; and
- 39 (ii) educational software that assists a dependent in
- 40 improving or expanding knowledge and skills in core
- 41 curriculum areas, including language arts, mathematics,
- 42 science, or social studies;

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1 purchased for use in the dependent's home and not used in
2 a trade or business or the production of income.

3 (E) Expense for transporting the dependent to and from
4 the nonpublic school where the dependent is enrolled,
5 excluding transportation for extracurricular activities.

6 (2) For a dependent who is enrolled in a nonpublic school
7 other than an accredited nonpublic school and who
8 participates in the ISTEP program under IC 20-10.1-16-16,
9 the following:

10 (A) Fees for academic tuition or instruction at the
11 nonpublic school where the dependent is enrolled,
12 excluding fees for the teaching of religious tenets,
13 doctrines, or worship when the purpose of the teaching is
14 to instill religious tenets, doctrines, or worship.

15 (B) Fees for academic instruction:

16 (i) in grade or age appropriate curricula outside a
17 regular school year or school day;

18 (ii) in the core curriculum areas of language arts,
19 mathematics, science, or social studies; and

20 (iii) in a program approved by the department of
21 education under IC 20-1-1.1-11.

22 (C) Expense for textbooks and instructional materials
23 required by the nonpublic school to a maximum of two
24 hundred dollars (\$200) per household minus an expense
25 under clause (D). This clause excludes expense for
26 textbooks and instructional materials for the teaching of
27 religious tenets, doctrines, or worship when the purpose of
28 the teaching is to instill religious tenets, doctrines, or
29 worship.

30 (D) Personal computer expense to a maximum of two
31 hundred dollars (\$200) per household for:

32 (i) personal computer hardware, excluding single
33 purpose processors; and

34 (ii) educational software that assists a dependent in
35 improving or expanding knowledge and skills in core
36 curriculum areas, including language arts, mathematics,
37 science, or social studies;

38 purchased for use in the dependent's home and not used in
39 a trade or business or the production of income.

40 (E) Expense for transporting the dependent to and from
41 the nonpublic school where the dependent is enrolled,
42 excluding transportation for extracurricular activities.

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(3) For a dependent who is excused under IC 20-8.1-3-34 from compulsory school (public or nonpublic) attendance and who participates in the ISTEP program under IC 20-10.1-16-16, the following:

(A) Fees for academic instruction:

- (i) in grade or age appropriate curricula outside a regular school year or school day;
- (ii) in the core curriculum areas of language arts, mathematics, science, or social studies; and
- (iii) in a program approved by the department of education under IC 20-1-1.1-11.

(B) Expense for textbooks and instructional materials necessary to provide equivalent instruction required under IC 20-8.1-3-34 to a maximum of one thousand dollars (\$1,000) per household minus an expense under clause (C). This clause excludes expense for textbooks and instructional materials for the teaching of religious tenets, doctrines, or worship when the purpose of the teaching is to instill religious tenets, doctrines, or worship.

(C) Personal computer expense, to a maximum of two hundred dollars (\$200) per household for:

- (i) personal computer hardware, excluding single purpose processors; or
- (ii) educational software that assists a dependent in improving or expanding knowledge and skills in core curriculum areas, including language arts, mathematics, science, or social studies;

purchased for use in the dependent's home and not used in a trade or business or the production of income.

Sec. 8. As used in this chapter, "taxpayer" means an individual who has any adjusted gross income tax liability.

Sec. 9. (a) This chapter applies to taxable years beginning after December 31, 2003, and ending before January 1, 2006.

(b) This chapter applies to a dependent who has legal settlement in a school corporation that:

- (1) is located in whole or in part in the most populous township in a county having a population of more than seven hundred thousand (700,000); and
- (2) serves the largest geographical territory of any school corporation in the township.

Sec. 10. (a) This section applies to a taxpayer who:

- (1) does not claim a credit under IC 6-3.1-26;



1 (2) has a household income of thirty-five thousand dollars
 2 (\$35,000) or less; and
 3 (3) incurs a qualified education expense;
 4 in a taxable year.

5 (b) A taxpayer described in subsection (a) is entitled to a credit
 6 against the adjusted gross income tax imposed by IC 6-3 for the
 7 taxable year in which the taxpayer incurs the qualified education
 8 expense. The credit is equal to the least of:

- 9 (1) the taxpayer's qualified education expense in the taxable
 10 year;
 11 (2) one thousand dollars (\$1,000) per dependent; or
 12 (3) either:
 13 (A) two thousand dollars (\$2,000) per household having a
 14 dependent described in section 7(1) or 7(2) of this chapter;
 15 or
 16 (B) one thousand dollars (\$1,000) per household having a
 17 dependent described in section 7(3) of this chapter.

18 Sec. 11. (a) This section applies to a taxpayer who:

- 19 (1) does not claim a credit under IC 6-3.1-26;
 20 (2) has a household income of more than thirty-five thousand
 21 dollars (\$35,000); and
 22 (3) incurs a qualified education expense;
 23 in a taxable year.

24 (b) A taxpayer described in subsection (a) is entitled to a credit
 25 against the adjusted gross income tax imposed by IC 6-3 for the
 26 taxable year during which the taxpayer incurs the qualified
 27 education expense. The credit is equal to the least of:

- 28 (1) the taxpayer's qualified education expense in the taxable
 29 year;
 30 (2) either:
 31 (A) five hundred dollars (\$500) per dependent for a
 32 dependent described in section 7(1) or 7(2) of this chapter;
 33 or
 34 (B) one thousand dollars (\$1,000) per dependent for a
 35 dependent described in section 7(3) of this chapter; or
 36 (3) one thousand dollars (\$1,000) per household.

37 Sec. 12. (a) A taxpayer and the taxpayer's spouse who are
 38 eligible for a credit under this chapter may not claim more than
 39 one (1) credit under this chapter for a taxable year.

40 (b) If an eligible taxpayer and the taxpayer's spouse file separate
 41 Indiana income tax returns, the taxpayer and the taxpayer's spouse
 42 may do one (1) of the following:

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(1) The taxpayer and the taxpayer's spouse each may claim on their respective income tax returns an amount equal to not more than one-half (1/2) of the credit allowed under this chapter.

(2) The taxpayer or the taxpayer's spouse may claim the entire credit allowed under this chapter.

Sec. 13. If the amount of the credit provided by this chapter that a taxpayer uses during a particular taxable year exceeds the sum of the taxes imposed by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter, the excess shall be returned to the taxpayer as a refund.

Sec. 14. Acceptance by a taxpayer of a credit under this chapter for qualified education expense for a dependent who is described in section 7(2) or 7(3) of this chapter does not provide any governmental entity or agency of the state with jurisdiction, authority, or control over the dependent's educational provider.

SECTION 2. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 26. Elementary and Secondary Education Tax Credit for Education Expense of Dependents Enrolled in Public Schools

Sec. 1. As used in this chapter, "dependent" has the meaning set forth in Section 151(c)(1)(B) of the Internal Revenue Code.

Sec. 2. As used in this chapter, "household" means a taxpayer, or a taxpayer and the taxpayer's spouse if they reside together, and all dependents of the taxpayer or of the taxpayer and the taxpayer's spouse if they reside together.

Sec. 3. As used in this chapter, "household income" means the total adjusted gross income of a household for the taxable year for which the credit provided by this chapter is claimed.

Sec. 4. As used in this chapter, "public school" has the meaning set forth in IC 20-10.1-1-2.

Sec. 5. As used in this chapter, "qualified education expense" means any of the following costs incurred by a taxpayer in a taxable year and paid to others for a dependent who is enrolled in a public school for a grade from kindergarten through grade 12:

(1) Transfer tuition payments under IC 20-8.1-6.1.

(2) Fees for academic instruction:

(A) in grade or age appropriate curricula outside a regular school year or school day;

(B) in the core curriculum areas of language arts,

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mathematics, science, or social studies; and

(C) in a program approved by the department of education under IC 20-1-1.1-11.

(3) Expense for textbooks and instructional materials required by the public school to a maximum of two hundred dollars (\$200) per household minus an expense under subdivision (4). This subdivision excludes expense for textbooks and instructional materials for the teaching of religious tenets, doctrines, or worship when the purpose of the teaching is to instill religious tenets, doctrines, or worship.

(4) Personal computer expense to a maximum of two hundred dollars (\$200) per household for:

(A) personal computer hardware, excluding single purpose processors; and

(B) educational software that assists a dependent in improving or expanding knowledge and skills in core curriculum areas, including language arts, mathematics, science, or social studies;

purchased for use in the dependent's home and not used in a trade or business or the production of income.

Sec. 6. As used in this chapter, "taxpayer" means an individual who has adjusted gross income tax liability.

Sec. 7. (a) This chapter applies to taxable years beginning after December 31, 2003, and ending before January 1, 2006.

(b) This chapter applies to a dependent who has legal settlement in a school corporation that:

(1) is located in whole or in part in the most populous township in a county having a population of more than seven hundred thousand (700,000); and

(2) serves the largest geographical territory of any school corporation in the township.

Sec. 8. (a) This section applies to a taxpayer who:

(1) does not claim a credit under IC 6-3.1-25;

(2) has a household income of thirty-five thousand dollars (\$35,000) or less; and

(3) incurs a qualified education expense;

in a taxable year.

(b) A taxpayer described in subsection (a) is entitled to a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year during which the taxpayer incurs the qualified education expense. The credit is equal to the least of:

(1) the taxpayer's qualified education expense in the taxable

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year;

(2) one thousand dollars (\$1,000) per dependent; or

(3) two thousand dollars (\$2,000) per household.

Sec. 9. (a) This section applies to a taxpayer who:

(1) does not claim a credit under IC 6-3.1-25;

(2) has a household income of more than thirty-five thousand dollars (\$35,000); and

(3) incurs a qualified education expense;

in a taxable year.

(b) A taxpayer described in subsection (a) is entitled to a credit against the adjusted gross income tax imposed by IC 6-3 for the taxable year during which the taxpayer incurs the qualified education expense. The credit is equal to the least of:

(1) the taxpayer's qualified education expense in the taxable year;

(2) five hundred dollars (\$500) per dependent; or

(3) one thousand dollars (\$1,000) per household.

Sec. 10. (a) A taxpayer and the taxpayer's spouse who are eligible for a credit under this chapter may not claim more than one (1) credit under this chapter for a taxable year.

(b) If an eligible taxpayer and the taxpayer's spouse file separate Indiana income tax returns, the taxpayer and the taxpayer's spouse may do one (1) of the following:

(1) The taxpayer and the taxpayer's spouse each may claim on their respective income tax returns an amount equal to not more than one-half (1/2) of the credit allowed under this chapter.

(2) The taxpayer or the taxpayer's spouse may claim the entire credit allowed under this chapter.

Sec. 11. If the amount of the credit provided by this chapter that a taxpayer uses during a particular taxable year exceeds the sum of the taxes imposed by IC 6-3 for the taxable year after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter, the excess shall be returned to the taxpayer as a refund.

SECTION 3. IC 20-1-1.1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) The department shall develop criteria to approve a program of academic instruction outside a regular school year or school day for purposes of an education tax credit under IC 6-3.1-25 and IC 6-3.1-26.**

(b) The department shall establish and approve programs that

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1 meet the criteria established under subsection (a).

2 (c) The department shall publish a list of programs that the
3 department approves under subsection (b).

4 SECTION 4. IC 20-10.1-16-16 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section,
7 "individual" refers to a person who:

8 (1) is:

9 (A) enrolled in a nonpublic school other than an accredited
10 nonpublic school; or

11 (B) is not enrolled in a school (either public or nonpublic);
12 and

13 (2) is the dependent (as defined in Section 151(c)(1)(B) of the
14 Internal Revenue Code) of a taxpayer who:

15 (A) is eligible to claim an education tax credit under
16 IC 6-3.1-25; and

17 (B) voluntarily makes a request to the department that the
18 dependent participate in the ISTEP program.

19 (b) An individual may participate in the ISTEP program.

20 (c) The department shall develop procedures for an individual
21 to participate in the ISTEP program. The procedures that the
22 department develops must include the following:

23 (1) Annually providing to a taxpayer a document that shows
24 that an individual is participating in the ISTEP program. The
25 document must be suitable for the taxpayer to use to file for
26 an education tax credit.

27 (2) Determining the appropriate age or grade level of an
28 individual only for purposes of establishing the years in which
29 the individual is in an age level or a grade level that is tested
30 under the ISTEP program.

31 (3) For an individual that is in an age level or a grade level
32 that is tested under the ISTEP program:

33 (A) administer the ISTEP test to the individual at no
34 charge at approved sites throughout Indiana; and

35 (B) allow an individual to elect to participate in the ISTEP
36 program by substituting for the ISTEP test a norm
37 referenced test or criterion referenced test when the
38 department approves:

39 (i) the test; and

40 (ii) the manner of administration of the test.

41 (4) Providing for an individual who is a child with a disability
42 (as defined in IC 20-1-6-1) whose education program does not

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1 include regular classroom instruction in mathematics and
2 English/language arts so that:

3 (A) the individual is not required to take an assessment
4 test; and

5 (B) a document is provided under subdivision (1) to allow
6 the taxpayer to file for an education tax credit.

7 (d) If an individual participates in the ISTEP program in a year
8 when the ISTEP test is not given to the individual's age level or
9 grade level and then is withdrawn from the ISTEP program when
10 the individual's age or grade level is tested, the individual may not
11 renew participation in the ISTEP program under this section
12 unless the individual takes the missed ISTEP test.

13 (e) The department may distribute an individual's ISTEP test
14 results only to the parent of the individual. The department may
15 not compile the ISTEP test results of individuals. An employee of
16 the department, an employee of the state, or a person providing
17 services to the department or to the state under a contract who
18 violates this subsection commits a Class A misdemeanor.

19 SECTION 5. [EFFECTIVE JULY 1, 2003] (a) IC 6-3.1-25 and
20 IC 6-3.1-26, both as added by this act, apply only to taxable years
21 beginning after December 31, 2003, and ending before January 1,
22 2006.

23 (b) The department of state revenue may adopt rules under
24 IC 4-22-2 to implement IC 6-3.1-25 and IC 6-3.1-26, both as added
25 by this act.

26 SECTION 6. An emergency is declared for this act.

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